

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

VICKIE TENNYSON

§

v.

§

CIVIL ACTION NO. 6:14cv229

COMMISSIONER, SOCIAL SECURITY  
ADMINISTRATION

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the social security complaint be dismissed with prejudice. Plaintiff has objected to the Magistrate Judge's conclusions that the ALJ's credibility, RFC, and Step Five findings are supported by substantial evidence and that the ALJ correctly applied the applicable legal standards in making those findings.

In support of her objections, Plaintiff states that Licensed Professional Counselor Kay Rogers is not a "non-medical source" because the term "medical source" refers to both acceptable and non-acceptable medical sources. The Magistrate Judge correctly stated that as a licensed professional counselor, Rogers is not an acceptable medical source. In addition, Rogers stated that her assessment was based on "observation only along with patient's subjective description" because she did not do medical tests in her counseling office.

Even when Rogers' medical source statement is taken into consideration, the Magistrate Judge properly concluded substantial evidence supports the ALJ's determination that any depression from which Plaintiff may have suffered was not a severe impairment. *Bayer v. Colvin*, 557 F.App'x 280, 287-88 (5th Cir., February 12, 2014). Plaintiff's objections are without merit.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which objection was made. *See* 28 U.S.C. §636(b)(1)


(district judge shall “make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”) Upon such *de novo* review, the Court has determined that the Report of the Magistrate Judge is correct and the Plaintiff’s objections are without merit. It is accordingly

**ORDERED** that Plaintiff’s objections are overruled and the Report of the Magistrate Judge (docket no. 18) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the decision of the Commissioner is **AFFIRMED** and the Plaintiff’s complaint is **DISMISSED WITH PREJUDICE**. Finally, it is

**ORDERED** that any motion not previously ruled on is **DENIED**.

**SIGNED this 16th day of September, 2015.**

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE